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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Part 90 of the)
Commission's Rules to Adopt)
Regulations for Automatic)
Vehicle Monitoring Systems)

PR Docket No. 93-61

DOCKET FILE COPY ORIGINAL

To: The Commission

OPPOSITION TO AND COMMENTS ON
PETITIONS FOR RECONSIDERATION

Pursuant to Section 1.429 of the Commission's Rules, MobileVision, L.P. ("MobileVision"), by its attorneys, hereby responds to various of the Petitions for Reconsideration of the Report and Order ("Order") issued by the Federal Communications Commission ("Commission") in the above-captioned proceeding.

I. Introduction.

While generally laudatory of the Commission's goals and its efforts to reach a balance between the competing interests in this proceeding in order to adopt definitive rules allowing for the efficient development and growth of the LMS industry, each and every multilateration LMS provider filed a Petition for Reconsideration indicating that modifications to the Order were necessary. Most of these Petitioners believed that the Order was unduly restrictive and would inhibit if not preclude the

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deployment of LMS wideband systems. Part 15 industry Petitioners on the other hand, focused their efforts on the expansion of their already impermissible elevation to coequal status in the frequency band in spite of their unlicensed nature.

For the reasons set forth in its Petition for Reconsideration ("Petition"), filed on April 24, 1995, MobileVision believes that the Commission should broaden the permitted uses of multilateration LMS, amend the grandfathering provisions of the Order to reflect the practical needs for providing service, and relax the emission mask requirements for LMS licensees.¹ MobileVision also asserts that rather than

¹ MobileVision notes that support for relaxation of the emission mask requirements is consistent throughout the Petitions for Reconsideration filed by multilateration LMS providers and requires no comment in opposition in this filing. MobileVision urges the Commission to recognize that uniformity of concern by those affected and adopt the alternative standards set forth in MobileVision's Petition. See MobileVision Petition at pp. 9-10 and Annex I.

See also Teletrac Petition for Partial Reconsideration and Clarification, April 25, 1995 at p. 2: "The emission specifications for LMS outlined in new Section 90.209(m) of the Commission's rules are prohibitive and impractical for all multilateration LMS systems such as Teletrac and overly stringent for non-multilateration LMS Systems"; Uniplex Corporation Petition for Reconsideration, April 24, 1995 at p. 6: "The new bandwidth limitations specification, 90.902(m) for LMS systems is impossible to meet. Every LMS provider disagreed with this specification when it was proposed. We support the paper and recommendations submitted to the Commission by MobileVision in their Petition for Reconsideration"; Petition for Reconsideration of Pinpoint Communications, April 24, 1995 at p. 17: "The new rules impose and out-of-band emission mask requirement for multilateration systems that is so stringent that it will preclude the deployment, and indeed the technical viability, of multilateration systems"; and, Southwestern Bell Mobile Systems, Inc. Petition for Reconsideration, April 24, 1995, at p. 21: "The FCC's proposed out-of-band emission specification

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provide further unwarranted protection to the Part 15 users, as they would urge, that the presumptions regarding Part 15 interference need to be revised and should be rebuttable upon a showing of a licensed LMS provider that it is suffering actual interference from an unlicensed Part 15 user.

II. Permitted Uses.

Of the wideband LMS providers, only Southwestern Bell Mobile Systems ("SBMS") requests narrowing permitted uses of the licensed services. As MobileVision has demonstrated throughout this proceeding and in its Petition, it is both necessary for the deployment of LMS systems and conducive to competition that the marketplace be allowed to define the nature of the services. SBMS, on the other hand, seeks further restriction of the definitions of permitted use and constraints on the ability of interconnection of "store and forward" messaging that are conducive only to the business objectives of a cellular provider attempting to restrict alternative offerings in the marketplace, restrictions clearly contrary to the interests of the consumer.

MobileVision also believes, as set forth in Section I of its Petition that the definitions regarding permissible use and interconnection require modification; however, those changes

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of 47 C.F.R. 90.209(m) is and should be modified. The requirements as written could not be satisfied by SBMA or any other LMS providers. The proposed formula leads to required attenuation levels of 6 dB and greater immediately outside the allocated bandwidth, which represents a technical impossibility.

should be aimed at unburdening the consumer from defining the emergency nature of his or her transmission, as currently set forth in the Order a vague and unenforceable test, and rather should focus on limiting store and forward restrictions to incoming transmissions to the mobile units.

III. Grandfathering.

Among the wideband providers, only SBMS favors restricting the grandfathering provisions: Pinpoint and MobileVision both favor some form of modifications to the grandfathering provisions of the Order.² SBMS's comments reflect

² See MobileVision L.P. Petition for Reconsideration, April 24, 1995, at pp. 7-9: "Multilateration LMS systems are capital intensive and require that large investment be made to effect deployment: MobileVision and others have invested substantial sums in the development and deployment of multilaterations LMS systems. The Commission recognized these prior extensive efforts when, in order not impose 'undue hardship,' it provided for grandfathering. . Since the existing transmit sites effectively define the coverage areas, MobileVision requests the Commission to amend its rules as follows:

- Require existing licensees to define their coverage areas in terms of their existing transmit licenses transmitting at 300 watts ERP utilizing an accepted propagation model such as the Egli or Hata formulas to calculate the coverage area of these sites.
- Permit the relocation of a transmit site anywhere within the coverage area requested by the LMS licensee so long as the initial coverage area is not materially expanded.
- Permit the addition of new transmit licenses anytime so long as the initial coverage area is not materially expanded."

Petition for Reconsideration of Pinpoint Communications, April 24, 1995 at p. 2: "The grandfathering rules appropriately recognize that allowing existing multilateration

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the sole position of a late entry to the licensing of LMS systems. Indeed, their resistance throughout the proceeding³ to grandfathering, in spite of the fairness recognized by the Commission in protecting the investment of the early entrepreneurs who developed systems in reliance on their licenses, is indicative of that status.

As MobileVision indicated in its Petition, and is recognized in the Pinpoint Petition for Reconsideration, the grandfathering provisions while well intended are not reflective of the realities regarding flexibility for antenna locations and

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licensees to construct and operate systems will spur the rapid deployment of high quality service to the public at prices constrained by competition among exiting licensees and new MTA licensees. In order to reap the benefits of such competition, however, the FCC must ensure that all licensees have a reasonable chance to succeed in the marketplace. Accordingly, the FCC should allow grandfathered licensees to: (1) build out within the BTAs in which they are licensed; (2) move their antenna sites after the construction deadline due to circumstances beyond their control; and (3) modify their licenses after the construction deadline to add additional mobiles"

- ³ See Southwestern Bell Mobile Systems, Inc. Ex Parte Submission, November 8, 1994, at p. 24: "Grandfathering existing implementation schedule extensions, or granting new three year extensions, as proposed by Teletrac and MobileVision, will subvert stated Commission policy goals for wideband AVM/LMS..."

Southwestern Bell Mobile Systems, Inc. Petition for Reconsideration, April 24, 1995, at p. 13: "Grandfathering undermines the potential benefits of competitive bidding, while promoting spectrum warehousing in direct contravention of law and policy. Grandfathering will reduce the amount of spectrum that can be auctioned while making it more difficult for a bidder to value the spectrum it seeks to acquire."

improvements and growth in the grandfathered systems necessary to adequately serve the customer base.⁴

V. "Sharing."

The Petitions for Reconsideration filed by both Pinpoint and Uniplex advocate sharing of spectrum, as did their filings throughout the proceeding. On the basis of their false premise that sharing is feasible, they would urge the Commission to establish a sub-band of shared spectrum that could not be auctioned after the expiration of the grandfathering period. The record in this proceeding is clear and the other wideband LMS providers are in unanimity, however, that time sharing will simply not work for LMS systems.⁵ As MobileVision has already

⁴ See Petition for Reconsideration of Pinpoint Communications, April 24, 1995, at pp. 13-16. MobileVision does not oppose the adoption of grandfathering on the basis of BTAs, as proposed by Pinpoint, but, given the standards necessary to be grandfathered under the Order, does not believe the limits on grandfathered licenses proposed by Pinpoint are necessary to avoid speculation.

⁵ MobileVision Reply Comments, July 29, 1993, pp. 16-19; Further Comments March 15, 1994, pp. 5, 18 and Annex; Further Reply Comments, March 29, 1994, pp. 2, 3, 13.

Teletrac Reply Comments, July 29, 1993, p. 22; Exhibit B to Application for Freeze, May 21, 1993; Comments, March 15, 1994, p. 5; Reply Comments, March 29, 1994, p. 14.

SBMS Reply Comments, July 1993, p. 5; Further Comments, March 15, 1994, pp. 17-18; Ex-Parte Communication, February 2, 1994; Virginia Tech Interim Report, p. 6; Reply Comments, March 29, 1994, pp. 16-17.

demonstrated,⁶ there are three impassable obstacles to the acceptance of time slicing:

- i) there is no common ground for arriving at a set of specifications;
- ii) essential emergency voice communications are rendered unusable; and,
- iii) an LMS system's reliability, capacity and integrity are catastrophically impaired.

VI. Part 15 Issues.

Several Part 15 industry members have submitted Petitions taking positions that at the outset of this proceeding would have been considered literally fantastic. Having already and incorrectly achieved the equivalent of a licensed status, in some areas with preferential results over legitimately licensed providers, the Petitions for Reconsideration of Metricom, Cellnet and the Part 15 Coalition, as examples, seek greater protection from "interference" from the licensed systems about whose development and deployment this rulemaking was directed. The fallacy of their position is expounded in each of the Petitions for Reconsideration filed by licensees providing wideband LMS services.

The filings made by the Part 15 industry Petitioner erroneously conclude that LMS providers such as MobileVision will

⁶ MobileVision Further Comments, March 15, 1994, Annex 3.

be their major source of interference. For example, the Petition for Limited Reconsideration filed by the Ad Hoc Gas Distribution Utilities Coalition, indicates that the meter reading devices used by gas utilities operate within the 910-920 MHz portion of the band,⁷ that portion of the band in which the Order allows only limited multilateration LMS use. But even assuming that concern, the interference calculations provided in Exhibit 1 to that petition in support of the Coalition's position are incorrect. Their assumptions of antenna heights and occupied bandwidths and furthermore do not account for operating distance or transmit times. The analysis ignores the comprehensive set of papers submitted by MobileVision that carried out a full analysis of the interference aspects of Part 15 and LMS. The technical paper, "Desensitization Calculations for Part 15 Devices and Widebands LMS," submitted December 13, 1994, gives a full analysis of the Itron system used by members of the Coalition, among others, with respect to all the LMS systems and one other Part 15 system, Metricom "Ricochet" which transmits across the entire ISM band. The probability of desensitization affecting Coalition users from the Metricom system is given as 93% while that from LMS systems is only 9-11%. Furthermore, it is shown that the Itron system is unaffected by narrow band transmissions from an LMS system. That MobileVision submission also demonstrates that the Itron system, if it operated within the LMS band, is extremely unlikely to cause interference to an LMS system.

⁷ Petition for Limited Reconsideration of Ad Hoc Gas Distribution Utilities Coalition, April 24, 1995, p. 13.


The message that should be clear to any Itron user, and to the users of the vast majority of Part 15 devices, is that it would be in their best interests to support the secondary status in the LMS sub-bands so that there were at least some areas where Metricom like systems were not transmitting and thus provide some clearer spectrum for their systems and devices. It has been shown throughout the record of this proceeding by analysis and experience that the vast majority of Part 15 devices can co-exist with LMS systems.

As previously demonstrated, certain Part 15 users such as Metricom will, if allowed to deploy under the protection of nonrebuttable presumptions, be the primary cause of crippling interference to both LMS providers and the majority of Part 15 users. For the reasons set forth in the Petition, LMS systems, which are licensed, must continue to have priority over all Part 15 users and, to that end, the presumptions provided for in the

Order should be made rebuttable in the case of actual interference.

Respectfully submitted,

MOBILEVISION, L.P.

A handwritten signature in black ink, appearing to read "John J. McDonnell", is written over a horizontal line.

John J. McDonnell
REED SMITH SHAW & MCCLAY
1200 18th Street, N.W.
Washington, D.C. 20036
(202) 457-8646

Counsel for MobileVision, L.P.

May 30, 1995

CERTIFICATE OF SERVICE

I, América G. Wear, a secretary at the firm of Reed Smith Shaw & McClay, do certify that copies of the foregoing Petition for Late Acceptance and Opposition to and Comments on Petitions for Reconsideration were mailed this 30th day of May, 1995, via U.S. mail, postage prepaid, first class, to the offices of:

Allan R. Adler
Cohn and Marks
1333 New Hampshire Ave., N.W.
Suite 600
Washington, D.C. 20036-1573

Gordon M. Ambach
Council of Chief State School
Officers
One Massachusetts Ave., N.W.
Suite 700
Washington, D.C. 20001-1431

McNeil Bryan
Uniplex Corporation
2905 Country Drive
St. Paul, MN 55117

Kelly D. Dahlman
Texas Instruments Incorporated
13510 North Central Expressway
P.O. Box 655474, MS 241
Dallas, TX 75265

Gary M. Epstein
Latham & Watkins
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Theresa Fenelon
Pillsbury, Madison & Sutro
1050 Connecticut Ave., N.W.
Suite 1200
Washington, D.C. 20036

Lawrence J. Movshin
Wilkinson, Barker, Knauer &
Quinn
1735 New York Ave., N.W.
Washington, D.C. 20006

Daniel S. Goldberg
Goldberg, Godles, Wiener & Wright
1229 Nineteenth St., N.W.
Washington, D.C. 20036

Henry Goldberg
Goldberg, Godles, Wiener & Wright
1229 19th Street, N.W.
Washington, D.C. 20036

Louis Gurman
Gurman, Kurtis, Blask & Freedman,
Chartered
1400 16th Street, N.W.
Suite 500
Washington, D.C. 20036

David E. Hilliard
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Robert B. Kelly
Kelly & Povich, P.C.
1101 30th Street, N.W.
Suite 300
Washington, D.C. 20007

Andrew D. Lipman
Swidler & Berlin, Chartered
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Kathleen Abernathy
AirTouch Communications
1818 N Street, N.W.
Washington, D.C. 20036

George L. Lyon, Jr.
Lukas, McGowan, Nace &
Gutierrez, Chartered
1111 19th St., N.W.
Suite 1200
Washington, D.C. 20036

Jeffrey L. Sheldon
UTC
1140 Connecticut Ave., N.W.
Suite 1140
Washington, D.C. 20036

Henry M. Rivera
Larry S. Solomon
Ginsburg, Feldman & Bress,
1250 Connecticut Ave., N.W.
Washington, D.C. 20036

Edward A. Yorkgitis, Jr.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Henrietta Wright
Goldberg, Godles, Wiener & Wright
1229 19th Street, N.W.
Washington, D.C. 20036


América G. Wear